

# Anti-Bribery Risk Assessment

A Systematic Overview of 151 countries

von

Dr. Thomas Grützner, Ulf Hommel, Klaus Moosmayer

1. Auflage

[Anti-Bribery Risk Assessment – Grützner / Hommel / Moosmayer](#)

schnell und portofrei erhältlich bei [beck-shop.de](http://beck-shop.de) DIE FACHBUCHHANDLUNG

Thematische Gliederung:

[Allgemeines](#)



Verlag C.H. Beck München 2011

Verlag C.H. Beck im Internet:

[www.beck.de](http://www.beck.de)

ISBN 978 3 406 61006 6

# Anti-Bribery Risk Assessment

A Systematic Overview of 151 countries

edited by

**Thomas Gruetzner**  
**Ulf Hommel**  
**Klaus Moosmayer**

C.H. Beck · Hart · Nomos

*Published by*

Verlag C. H. Beck oHG, Wilhelmstraße 9, 80801 München, Germany,  
eMail: [bestellung@beck.de](mailto:bestellung@beck.de)

*Co-published by*

Hart Publishing, 16C Worcester Place, Oxford, OX1 2JW, United Kingdom,  
online at: [www.hartpub.co.uk](http://www.hartpub.co.uk)

Published in North America (US and Canada) by Hart Publishing, c/o International  
Specialized Book Services, 930 NE 58<sup>th</sup> Avenue, Suite 300, Portland, OR 97213-3786, USA,  
eMail: [orders@isbs.com](mailto:orders@isbs.com)

*Disclaimer*

Each legal chapter of this book consists of an explanation and analysis of the law at the time of writing, except where the contrary is expressly stated. The text in this work is offered for information and education, and is not intended to be relied upon for the giving of advice. The general concepts referred to may, or may not, apply in some specific circumstances or situations and the Authors, Editor and Publisher give no warranty as to the applicability of the contents of this work to specific conditions pertaining to individual personal or business situations. Readers should always check their local laws and take legal advice wherever required before proceeding with any legal or business venture. While asserting that all statements in the work purporting to be facts are true and based on the best information available, the Authors, Editor and Publisher do not accept responsibility for reliance on any statement of fact or opinion.

ISBN 978-3-406-61006-6 (Beck)  
ISBN 978-1-84946-129-0 (Hart Publishing)

© 2011 Verlag C. H. Beck oHG  
Wilhelmstr. 9, 80801 München

Printed in Germany by  
fgb · freiburger graphische betriebe  
Bebelstr. 11, 79108 Freiburg

Typeset by Reemers Publishing Services GmbH, Krefeld

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted, in any form or by any means, without the prior permission of Verlag C. H. Beck, or as expressly permitted by law under the terms agreed with the appropriate reprographic rights organisation. Enquiries concerning reproduction which may not be covered by the above should be addressed to C. H. Beck at the address above.

## Introduction by the Editors

The fight against corruption has become a global effort on a national and international level.

As a landmark, the Convention of the Organization for Economic and Cooperative Development (OECD) on Combating Bribery of Foreign Public Officials in International Business Transactions<sup>1</sup> was signed on December 17, 1997, entered into force in February 1999 and now has 38 member states. The OECD Convention solely addresses bribery of foreign public officials and covers only liability of bribers but not foreign officials soliciting or receiving bribes. Despite its limited scope, the OECD Convention is of significant importance due to the review system which monitors its implementation in the member states. Furthermore, the OECD Convention had a triggering effect regarding other multilateral Anti-Bribery Conventions in the following years.

On December 14, 2005, the United Nations Convention against Corruption (UNCAC)<sup>2</sup> entered into force and currently has 143 member states. UNCAC has the broadest scope of all existing multilateral anti-corruption agreements. The Convention includes commercial bribery and offences like obstruction of justice, books and records violations, illicit enrichment and embezzlement which are often closely connected with corrupt activities. UNCAC further contains important procedural instruments for the global fight against corruption in the fields of international co-operation and assistance. However, many of its provisions are only optional and the Convention still lacks sustainable implementation and execution within its signatories.

Besides the OECD Convention and UNCAC, several regional anti-bribery conventions have had significant influence on national legislation. The Inter-American Convention against Corruption (IACAC)<sup>3</sup> of the Organization of American States which entered into force on March 6, 1997- and signed in the meantime by 28 countries- was the first regional multilateral convention addressing the fight against corruption. Clearly influenced by the US Foreign Corrupt Practices Act, IACAC focuses on the bribery of foreign officials but additionally requires including this offence explicitly as an extraditable offence in every extradition treaty concluded between the parties to the convention. In Europe, the Criminal Law Convention on Corruption of the Council of Europe<sup>4</sup> entered into force July 1, 2002 and criminalizes a wide range of offences, including active and passive bribery in the public and private sector. The implementation of the Convention in its current 45 member states is monitored by a peer review process. Last but not least, the African Union

---

<sup>1</sup> [www.oecd.org/daf/nocorruption/convention](http://www.oecd.org/daf/nocorruption/convention)

<sup>2</sup> <http://www.unodc.org/unodc/en/treaties/CAC/index.html>

<sup>3</sup> <http://www.oas.org/juridico/english/Treaties/b-58.html>

<sup>4</sup> [http://www.coe.int/t/dghl/monitoring/greco/documents/instruments\\_en.asp](http://www.coe.int/t/dghl/monitoring/greco/documents/instruments_en.asp)

## *Introduction by the Editors*

Convention on Preventing and Combating Corruption<sup>5</sup> was adopted on July 11, 2003, entered into force August 5, 2006 and has been ratified by 31 countries so far.<sup>6</sup>

These conventions have influenced domestic anti-bribery-legislation worldwide, not only with regard to the drafting of the specific offences but also with regard to an enhanced multilateral cooperation of national authorities in the course of bribery investigations. This is not only true for individuals but increasingly also for companies doing business internationally. With the exception of the Africa Union Convention, all of the aforementioned treaties contain specific provisions requesting signatory states to implement in their domestic legislation, criminal or at least administrative standards of liability for corporations. This concept has been adopted by more and more states worldwide.

Bribery-investigations against corporations can lead to tremendous financial and reputational damage, including the risk of losing a license to do business in the relevant countries (debarment) or blacklisting by Multilateral Development Banks in case projects tainted by corrupt activities have been financed by them. Therefore, it is imperative for management and legal and compliance personnel of corporations to provide their employees with clear directives in order to fully comply with the domestic anti-bribery laws of the states where the corporations are doing business.

This compilation of more than 150 domestic anti-bribery laws originates from a project which was part of Siemens AG efforts to build up its new Compliance Program in the course of the last three years. Due to the fact that the company does business in nearly every country around the world, it was decided to globally collect from nearly every jurisdiction, answers to the most relevant questions Siemens and its employees may have when doing business abroad. Anti-bribery legislation and case law is still in progress nearly all over the world. This project was coordinated during the years 2008 and 2009 by the international law firm Baker & McKenzie and the national chapters were provided with great diligence by experienced legal experts from local Baker & McKenzie offices, associated law firms or communicating law firms. We do however ask for your understanding that we can not assume liability for the completeness and correctness of the information provided in the national chapters. Furthermore, the information given in the national chapters is not intended to serve as a substitute for competent legal advice in specific cases. In fact, the compilation is intended to be a practical resource for other corporations, their management, legal and compliance personnel and employees in order to identify early possible bribery-risks in foreign jurisdictions and thereby contribute to the fight against corruption worldwide.

In order to prevent this book from becoming too bulky, the fifty most important countries have been selected for the printed version. The remaining approximately 100 countries are included in a CD, inserted in the rear jacket of this book.

We would like to thank Ms. Cigdem Sevinc for her ongoing assistance in collecting the relevant documents. Without her diligent work this book would never have existed.

*Thomas Grützner*  
Attorney-at-Law  
Baker & McKenzie

*Ulf Hommel*  
Senior Counsel  
Siemens AG

*Klaus Moosmayer*  
Chief Counsel Compliance  
Siemens AG

---

<sup>5</sup> <http://www.africa-union.org/root/au/Documents/Treaties/Text/Convention%20on%20Combating%20Corruption.pdf>

<sup>6</sup> For further information regarding the international conventions and related legal issues see *United Nations, Corruption – Compendium of International Legal Instruments on Corruption*, 2<sup>nd</sup> edition, New York, 2005 and *OECD, Corruption – a Glossary of International standards in Criminal Law*, Paris, 2008.

## List of Countries (Countries in italic on CD only!)

	Pages
<i>Albania</i> (Artur Asllani)	
<i>Algeria</i> (Marie C. Radziewsky)	
<i>Angola</i> (Guiomar Lopes)	
<b>Argentina</b> (Vicente de Palacios y Manrique)	1
<i>Armenia</i> (David Sargsyan)	
<i>Azerbaijan</i> (Daniel Matthews)	
<b>Australia</b> (Alex Wolff)	7
<b>Austria</b> (Daniel Larcher)	17
<i>Bahrain</i> (Hassan Ali Radhi)	
<i>Bangladesh</i> (Abdullah M. Hasan)	
<i>Barbados</i> (Gillian M.H. Clarke)	
<i>Belarus</i> (Katerina Makarenko)	
<b>Belgium</b> (Sofie Verherstraeten)	25
<i>Benin</i> (Rafikou Alabi)	
<i>Bhutan</i> (Jamyang Sherab)	
<i>Bolivia</i> (Pablo Rojas)	
<i>Bosnia</i> (Maric Law Office)	
<b>Brazil</b> (Esther Flesch, Sylvia Urquiza, Bruno C. Maeda)	35
<i>Brunei</i> (D.F. Abang Zen)	
<i>Bulgaria</i> (Teodora Tsenova)	
<i>Burkina Faso</i> (Issouf Baadthio)	
<i>Cambodia</i> (Rupert Haw)	
<i>Cameroon</i> (Cabinet Me Ngwe)	
<b>Canada</b> (Lisa M. Douglas)	43
<i>Cayman Islands</i> (Nicolas Joseph)	
<i>Central Africa</i> (Michel Brizoua-Bi)	
<i>Chad</i> (Michel Brizoua-Bi)	
<b>Chile</b> (Ignacio Garcia, Sebastian Doren)	49
<b>China</b> (Cynthia Tang)	59
<i>Colombia</i> (Tatiana Garces Carvajal)	
<i>Congo</i> (Pierre Risasi)	
<i>Congo Brazaville</i> (Michel Brizoua-Bi)	
<i>Costa Rica</i> (Pedro M. Muñoz)	
<i>Croatia</i> (Sasa Divjak)	
<i>Cuba</i> (Hermenegildo Altozano)	
<i>Curacao</i> (Natasha D.S. Joubert)	
<i>Cyprus – TR</i> (Mustafa Akbilen)	

## List of Countries

<b>Czech Republic</b> (Patrik Kastner)	65
<b>Denmark</b> (Henning Hansen)	75
<i>Dominican Republic</i> (Juan Manuel Cáceres)	
<i>Ecuador</i> (Jorge Sicouret Lynch)	
<i>Egypt</i> (Ehab Taha)	
<i>Equatorial Guinea</i> (Michel Brizoua-Bi)	
<i>Eritrea</i> (Kebreab Habte Michael)	
<i>Estonia</i> (Margus Mugu)	
<i>Ethiopia</i> (Teshome Gabre-Mariam Bokan)	
<b>Finland</b> (Kristiina Liljedahl)	81
<b>France</b> (Laetitia Desoutter)	87
<i>Gabon</i> (Michel Brizoua-Bi)	
<i>Gambia</i> (Howsoon B. Semega-Janneh)	
<b>Germany</b> (Thomas Grützner)	97
<i>Ghana</i> (David A. Hesse)	
<i>Gibraltar</i> (Richard Buttigieg, Michael Castiel, Francis Muscat)	
<b>Greece</b> (John A. Apsouri)	105
<i>Guatemala</i> (Liz Gordillo Anleu, Cynthia Müller, Luis Pedro del Valle)	
<i>Guinea Bissau</i> (Michel Brizoua-Bi)	
<i>Guyana</i> (Marcel Bobb)	
<i>Haiti</i> (Salim Succar)	
<i>Honduras</i> (Gustavo León-Gómez/Karla Andino)	
<b>Hong Kong</b> (Cynthia Tang)	115
<b>Hungary</b> (László Burger)	121
<i>Iceland</i> (Ástriður Gísladóttir)	
<b>India</b> (Sudhir Sharma, Ajit Warrier)	133
<b>Indonesia</b> (Mochamad Fachri)	147
<b>Iran</b> (Ahmed Ehtesham)	153
<b>Ireland</b> (Terence McCrann, Mark Wiliam Murphy)	163
<b>Israel</b> (Navit Negev, Gal Harari-Goldman)	175
<b>Italy</b> (Gianfranco Di Garbo)	187
<i>Ivory Coast</i> (Arsène K. Dable)	
<b>Japan</b> (I-Ching Tseng)	
<i>Jordan</i> (Kais K. Zayadin)	
<i>Kazakhstan</i> (Azamat Kuatbekov)	
<i>Kenya</i> (Stella Mumu)	
<i>Kosovo</i> (Ilaz Ramajli)	
<i>Kuwait</i> (Sam Habbas, David Walker)	
<i>Kyrgyz Republic</i> (Aicholpon Jorupbekova)	
<i>Laos</i> (DFDL Mekong)	
<i>Latvia</i> (Laine Skopina)	
<i>Lebanon</i> (Stephan Jäger)	
<i>Lesotho</i> (JTM Moiloa)	
<i>Liberia</i> (James E. Pierre)	

## List of Countries

<i>Libya</i> (Stephan Jäger)	
<i>Liechtenstein</i> (Thomas Risch)	
<i>Lithuania</i> (Jaunius Gumbis)	
<i>Luxembourg</i> (François Kremer)	
<i>Macao</i> (Rita Martins)	
<i>Macedonia</i> (Tatjana Popovski Buloski)	
<i>Madagascar</i> (John Ffooks)	
<i>Malawi</i> (Krishna Savjani Obe)	
<b>Malaysia</b> (Adeline Wong)	201
<i>Maldives</i> (Mizna Ahmed)	
<i>Mali</i> (Michel Brizoua-Bi)	
<i>Malta</i> (Gege Vella)	
<i>Mauritius</i> (Marc Hein)	
<b>Mexico</b> (Francisco Escutia-Rodriguez)	221
<i>Moldavia</i> (Alexander Turcan, Marin Chicu, Mariana Stratan)	
<i>Mongolia</i> (Borgilmaa Tsend)	
<i>Mozambique</i> (Pedro Couto)	
<i>Myanmar</i> (James Finch)	
<i>Namibia</i> (H.B. Gerdes)	
<b>Netherlands</b> (Remke Scheepstra)	225
<i>New Zealand</i> (Karen Ngan, Matt Smith)	
<i>Nicaragua</i> (Ana Teresa Rizo)	
<i>Niger</i> (Any Ray Partners)	
<b>Nigeria</b> (Olumide A. Akpata)	231
<b>Norway</b> (Knut-Marius Sture)	241
<b>Pakistan</b> (Ahsan Zahir Rizvi)	249
<i>Panama</i> (Ramón Varela)	
<i>Paraguay</i> (Carlos Darío Ruffinelli)	
<i>Peru</i> (Alfonso de los Heros)	
<b>Philippines</b> (Axel Rupert Cruz)	263
<b>Poland</b> (Magdalena Kogut)	275
<b>Portugal</b> (Pedro Cardigos, Gonçalo Capela Godinho)	287
<b>Romania</b> (Catalin Baiculescu)	291
<b>Russia</b> (Ekaterina Kobrin)	299
<i>Rwanda</i> (Désiré Kamanzi)	
<b>Saudi Arabia</b> (George Sayen)	313
<i>Senegal</i> (Mame Adama Gueye)	
<i>Serbia</i> (Jelena Vuckovic)	
<i>Sierra Leone</i> (Centus Macauley)	
<b>Singapore</b> (Richard Lam)	323
<b>Slovak Republic</b> (Lubomir Marek)	329
<b>South Korea</b> (Eui Jong (EJ) Chung)	341
<b>Spain</b> (Mar de Pedraza, Maria Masso)	351
<i>Sudan</i> (Ahmed A. Hamo)	



## List of Countries

<i>Suriname</i> (Hans Lim A Po)	
<i>Swaziland</i> (Rob Cloete)	
<b>Sweden</b> (Johan Zetterstrom)	359
<b>Switzerland</b> (Mark M. Livschitz)	369
<i>Syria</i> (Mahmoud Amer)	
<b>Taiwan</b> (Howard Shiu)	377
<i>Tajikistan</i> (Bakhtiyor Abdulhamidov)	
<i>Tanzania</i> (Wilbert B. Kapinga)	
<b>Thailand</b> (Buntarika Somboonsub)	385
<i>Togo</i> (Martial Akakpo)	
<i>Trinidad &amp; Tobago</i> (Mark Ramkerrysingh)	
<i>Tunisia</i> (Yessine Ferah)	
<b>Turkey</b> (İsmail G. Esin)	397
<i>Turkmenistan</i> (Igor Kaganovskiy)	
<i>United Arab Emirates</i> (anonymous)	
<i>Uganda</i> (Phillip Karugaba)	
<b>Ukraine</b> (Svitlana Romanova)	413
<b>United Kingdom</b> (Mark Simpson)	423
<b>United States of America</b> (Richard M. Franklin)	445
<i>Uruguay</i> (Julio Iribarne)	
<i>Uzbekistan</i> (Sergey I. Verenin)	
<b>Venezuela</b> (Eugenio Hernandez-Breton)	455
<b>Vietnam</b> (Tran Thi Thanh Ha)	465
<i>Yemen</i> (Saba & Co., T.M.P. – Yemen)	
<i>Zambia</i> (Charles Siamutwa)	
<i>Zimbabwe</i> (Michael Clyde)	